

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

DANIEL DENARDO,

Plaintiffs,

vs.

MUNICIPALITY OF ANCHORAGE, APD  
BADGE #1503, SHIRLEY WINBORG,  
and APD BADGE #1075, GIL  
DAVIS,

Defendants.

Case No. 3:04-cv-0269-RRB

**ORDER RESCINDING DISMISSAL**

Before the Court is Plaintiff's Rule 60 Motion to Convert Dismissal with Prejudice Into Dismissal Without Prejudice or, in the Alternative, Remand to State Jurisdiction (Docket 29). The motion is opposed by Defendants.

It is clear that Plaintiff wants this matter litigated in State Court. It is just as clear that it must remain in Federal Court for reasons previously articulated. Plaintiff, however, should not lose his cause of action because of an oversight or mistake. Therefore, the Court will permit Plaintiff to withdraw his stipulation, but will not dismiss the action absent agreement

of the parties as to the terms of the dismissal. If the parties do not agree with regard to the terms of dismissal, which they do not, the matter shall proceed in Federal Court.

**IT IS SO ORDERED.**

ENTERED this 27th day of January, 2006.

/s/ RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE